

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1438

Introduced by Senator Pavley

February 21, 2014

An act to amend *Section 1714.22 of the Civil Code, and to amend Section 11601 Sections 1797.197 and 11601* of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1438, as amended, Pavley. Controlled substances: ~~research~~. opioid antagonists.

(1) *Existing law authorizes a licensed health care provider who is permitted by law to prescribe an opioid antagonist and is acting with reasonable care to prescribe and subsequently dispense or distribute an opioid antagonist for the treatment of an opioid overdose to a person at risk of an opioid-related overdose or a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. Under existing law, licensed health care providers are authorized to issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist the person at risk. Existing law also authorizes licensed health care providers to issue standing orders for the administration of an opioid antagonist by a family member, friend, or other person in a position to assist a person experiencing or suspected of experiencing an opioid overdose.*

Existing law provides that a licensed health care provider who acts with reasonable care and issues a prescription for, or an order for the administration of, an opioid antagonist to a person experiencing or suspected of experiencing an opioid overdose is not subject to

professional review, liable in a civil action, or subject to criminal prosecution for issuing the prescription or order. Under existing law, a person who is not otherwise licensed to administer an opioid antagonist, but who meets other specified conditions, is not subject to professional review, liable in a civil action, or subject to criminal prosecution for administering an opioid antagonist.

This bill would clarify that peace officers are included among the persons authorized to receive and distribute opioid antagonists as described above.

(2) Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, establishes the Emergency Medical Services Authority (EMSA), which is responsible for the coordination and integration of all state agencies concerning emergency medical services. Under existing law, EMSA is required to establish training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the characteristics and method of assessment and treatment of anaphylactic reactions and the use of epinephrine.

This bill would require EMSA to establish training and standards, and promulgate regulations, for all prehospital emergency care personnel, as defined, regarding the use and administration of naloxone hydrochloride and other opioid antagonists. The bill would also authorize a local EMS agency to establish training and standards, and promulgate regulations, in lieu of those developed and promulgated by EMSA, for all prehospital emergency care personnel under the jurisdiction of that local EMS agency regarding the use and administration of naloxone hydrochloride and other opioid antagonists. The bill would specify that both of those types of trainings satisfy the requirements described above allowing for immunity from criminal and civil liability for administering an opioid antagonist.

Existing

(3) Existing law, the Uniform Controlled Substances Act, requires the Attorney General to encourage research on the misuse and abuse of controlled substances, and, in connection with that research, and in furtherance of the enforcement of the act, authorizes the Attorney General to undertake specific acts, including developing new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of the act.

This bill would additionally permit the Attorney General, in connection with that research, and in furtherance of the enforcement of

the act, to authorize hospitals and trauma centers to share information with local law enforcement agencies *and local emergency medical services agencies* about controlled substances. The bill would limit the data that may be provided by hospitals and trauma centers to the number of overdoses and the substances suspected as the primary cause of the overdoses. The bill would require that the information shared be shared in a manner that ensures complete patient confidentiality.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1714.22 of the Civil Code is amended to
2 read:
3 1714.22. (a) For purposes of this section, the following
4 definitions shall apply:
5 (1) “Opioid antagonist” means naloxone hydrochloride that is
6 approved by the federal Food and Drug Administration for the
7 treatment of an opioid overdose.
8 (2) “Opioid overdose prevention and treatment training
9 program” means any program operated by a local health
10 jurisdiction or that is registered by a local health jurisdiction to
11 train individuals to prevent, recognize, and respond to an opiate
12 overdose, and that provides, at a minimum, training in all of the
13 following:
14 (A) The causes of an opiate overdose.
15 (B) Mouth to mouth resuscitation.
16 (C) How to contact appropriate emergency medical services.
17 (D) How to administer an opioid antagonist.
18 (b) A licensed health care provider who is authorized by law to
19 prescribe an opioid antagonist may, if acting with reasonable care,
20 prescribe and subsequently dispense or distribute an opioid
21 antagonist to a person at risk of an opioid-related overdose or to
22 a family member, friend, *peace officer*, or other person in a position
23 to assist a person at risk of an opioid-related overdose.
24 (c) (1) A licensed health care provider who is authorized by
25 law to prescribe an opioid antagonist may issue standing orders
26 for the distribution of an opioid antagonist to a person at risk of
27 an opioid-related overdose or to a family member, friend, *peace*

1 *officer*, or other person in a position to assist a person at risk of an
2 opioid-related overdose.

3 (2) A licensed health care provider who is authorized by law to
4 prescribe an opioid antagonist may issue standing orders for the
5 administration of an opioid antagonist to a person at risk of an
6 opioid-related overdose by a family member, friend, *peace officer*,
7 or other person in a position to assist a person experiencing or
8 reasonably suspected of experiencing an opioid overdose.

9 (d) (1) A person who is prescribed or possesses an opioid
10 antagonist pursuant to a standing order shall receive the training
11 provided by an opioid overdose prevention and treatment training
12 program.

13 (2) A person who is prescribed an opioid antagonist directly
14 from a licensed prescriber shall not be required to receive training
15 from an opioid prevention and treatment training program.

16 (e) A licensed health care provider who acts with reasonable
17 care shall not be subject to professional review, be liable in a civil
18 action, or be subject to criminal prosecution for issuing a
19 prescription or order pursuant to subdivision (b) or (c).

20 (f) Notwithstanding any other law, a person who possesses or
21 distributes an opioid antagonist pursuant to a prescription or
22 standing order shall not be subject to professional review, be liable
23 in a civil action, or be subject to criminal prosecution for this
24 possession or distribution. Notwithstanding any other law, a person
25 not otherwise licensed to administer an opioid antagonist, but
26 trained as required under paragraph (1) of subdivision (d), who
27 acts with reasonable care in administering an opioid antagonist,
28 in good faith and not for compensation, to a person who is
29 experiencing or is suspected of experiencing an overdose shall not
30 be subject to professional review, be liable in a civil action, or be
31 subject to criminal prosecution for this administration.

32 *SEC. 2. Section 1797.197 of the Health and Safety Code is*
33 *amended to read:*

34 1797.197. (a) The authority shall establish training and
35 standards for all prehospital emergency care personnel, as defined
36 ~~pursuant to~~ in paragraph (2) of subdivision (a) of Section 1797.189,
37 regarding the characteristics and method of assessment and
38 treatment of anaphylactic reactions and the use of epinephrine.
39 The authority shall promulgate regulations regarding these matters
40 for use by all prehospital emergency care personnel.

(b) (1) *The authority shall establish training and standards for all prehospital emergency care personnel, as defined in paragraph (2) of subdivision (a) of Section 1797.189, regarding the use and administration of naloxone hydrochloride and other opioid antagonists. The authority shall promulgate regulations regarding these matters for use by all prehospital emergency care personnel. The authority may designate existing training and standards for the use and administration of naloxone hydrochloride or another opioid antagonist to satisfy the requirements of this section.*

(2) *A local EMS agency may develop its own training and standards, and may promulgate regulations, in lieu of the training and standards and regulations developed by the authority pursuant to paragraph (1), regarding the use and administration of naloxone hydrochloride and other opioid antagonists by prehospital emergency care personnel under the jurisdiction of that local EMS agency.*

(3) *The training described in paragraphs (1) and (2) shall satisfy the requirements of paragraph (1) of subdivision (d) of Section 1714.22 of the Civil Code.*

SECTION 1.

SEC. 3. Section 11601 of the Health and Safety Code is amended to read:

11601. The Attorney General shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this division, he or she may do all of the following:

(a) Develop new or improved approaches, techniques, systems, equipment, and devices to strengthen the enforcement of this division.

(b) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting demonstrations or special projects that bear directly on misuse and abuse of controlled substances.

(c) (1) Authorize hospitals and trauma centers to share information with local law enforcement agencies *and local emergency medical services agencies* about controlled substance overdose trends.

(2) The information provided by hospitals and trauma centers pursuant to this subdivision shall include only the number of overdoses and the substances suspected as the primary cause of

- 1 the overdoses. Any information shared pursuant to this subdivision
- 2 shall be shared in a manner that ensures complete patient
- 3 confidentiality.

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